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From: Chu, Ed
Sent: Wed 3/8/2017 11:37:13 PM
Subject: RE: Please confirm

Thank you for your message inquiring about EPA's review of Missouri's Underground Storage Tank program. As was stated in a May 11, 2016 letter to PSTIF Chairman Donald McNutt, the program review was intended to be a comprehensive evaluation of all aspects of Missouri's UST cleanup program out of concern for preventing delays in cleanups where people were exposed to petroleum releases that EPA observed in Missouri. Additionally, EPA hoped to gain insight into the upcoming evaluation of Missouri's application to renew the state program approval.

Based on feedback received at our discussion at the January 12, 2017 meeting with you and MDNR representatives, we are now revising the draft program review report that was transmitted on November 28, 2016 to PSTIF and MDNR. Your audio recording of that meeting has been very helpful to us in revising the report. We are revising the report to focus on EPA's most urgent and primary concern – protection of human health at higher risk UST cleanup sites. With this change, the program review report will serve as a resource for the evaluation of Missouri's program approval next year and will not require a response to the program review report.

The 2016 program review was focused on the corrective action component, and specifically on investigating the factors that have led to delays in response at higher risk leaking UST sites such as those where people have been exposed to petroleum vapors in their homes, drinking water wells were threatened, free product or contaminants migrated off-site and were not investigated or fully characterized, or there were significant threats of exposures and/or off-site impacts (all potentially increasing third-party liabilities). EPA reviewed 47 case files and found one or more of these urgent conditions at 45 of the sites, of which 42 are still open, and delays at 25 sites. EPA documented similar problems in past program reviews performed in 2004 and 2012.

In the program review report, we highlight two cases – Zill's and Main Street Shell sites in Kansas City, Missouri. At these sites, MDNR and PSTIF have been unable to mitigate people's exposures to petroleum vapors and investigate the releases from underground storage tanks. The program review found that failure to fund work influenced the proper and timely characterization and extent of environmental cleanup standards at other specific leaking UST sites, as well. Such dynamics appeared to be more pronounced at sites where free product is present, plume stability is in question, or when third-party complaints and actual or threatened exposures are present. During the program review, EPA documented additional factors in these and other cases that contribute to leaking underground storage tank investigation and cleanup delays.

Delays like those at Zill's and Main Street Shell will continue to receive heightened scrutiny by EPA; where human exposures to petroleum vapors have been documented, conducting complete investigations and quickly implementing remedies is critical. These issues left unaddressed may cause EPA to not approve Missouri's program when the application, which is due by October 2018, is submitted for re-approval. This would be based on the "no less stringent" criteria required for program approval (including timeliness of investigation, corrective action, and financial responsibility; see 40 C.F.R. §§ 281.34-35 and 281.37). During that same review period, EPA may also consider withdrawal of PSTIF as a financial responsibility mechanism on the basis of environmental performance as permitted by Section 1522 of the Energy Policy Act of 2005.

Thank you for accommodating my staff in performing this review. We remain committed to working with the state of Missouri as it continues to improve its Underground Storage Tank program. If you would like to discuss further, please contact me at 913-551-7006.

Edward H. Chu | Regional Administrator (Acting)

U.S. Environmental Protection Agency

Region 7 (Kansas, Missouri, Nebraska, Iowa & Nine Tribes)

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From: PSTIF [mailto:pstif@sprintmail.com]

Sent: Tuesday, March 07, 2017 12:37 PM

To: Chu, Ed <Chu.Ed@epa.gov>

Subject: Please confirm

Good afternoon, Ed –

I've been unable to reach you by telephone, so am sending this email to request confirmation of information received from MDNR Director Carol Comer.

She and I have had a couple excellent conversations recently and we are excited about working with her in the coming months. One of the topics we briefly discussed was the draft EPA report on Missouri's LUST program. As you know, we have serious concerns about the draft report and, at EPA's direction, had begun preparing written comments on it for submittal by the end of February.

Ms. Comer indicated you have granted additional time for dialogue before proceeding with final publication of the report. We appreciate that courtesy and concur she needs adequate time to get her leadership team in place and establish her policies and priorities. As I'm sure you'll understand, however, given the report's mischaracterization of several PSTIF issues, my Trustees and I would appreciate hearing directly that you have postponed the deadline for submittal of our comments.

Thank you,

Carol R. Eighmey

Executive Director

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